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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,517	09/28/2005	William C. Breneman	3468-65972-06	6085
24197 7590 05/27/2009 KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204			EXAMINER NGUYEN, NGOC YEN M	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 05/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,517

Applicant(s)

BRENEMAN, WILLIAM C.

Examiner

Ngoc-Yen M. Nguyen

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruff et al (5,066,472) in view of WO 03/033115 (using Hirano et al 2004/0258596 as unofficial English translation) and Terry et al (3,900,312).

Ruff '472 discloses a method for processing a chlorosilane containing residue produced as bottom product after the distillation of chlorosilanes from hydrochlorination or chlorination of silicon to recover the chlorosilanes and hydrogen chloride comprising: separating the chlorosilanes contained in the residue; treating the remaining residue with water vapor in the presence of additional hydrogen chloride to recover hydrogen chloride from a resulting gaseous mixture (note claim 1). The amount of steam added determines the degree of hydrolysis of the metal chlorides (note column 2, lines 23-24).

For the source of the residue, it would have been obvious to one of ordinary skill in the art to use any waste source, i.e. residue, from any the process as the starting residue to be treated in the process of Ruff '472 as long as such residue contains metal chloride(s) that need(s) to be removed.

The difference is Ruff '472 does not disclose (1) the use of a powdered hydrate to react with the metal chloride and (2) the presence of sodium chloride.

For difference (1), WO '115 discloses a method for removing a halogen series gas by contacting a gas containing halogen series gas forming at least one kind selected from the group consisting of HF, HCl, HBr and HI by water with a granule containing from 60 to 99.9 mass % of a solid base and from 0.1 to 40 mass% of a carbonaceous material to the total mass amount of the granule in the presence of water (note WO '115, claim 1 or Hirano '596, claim 1).

WO '115 teaches that using a dry type treating method would make an apparatus smaller and simplify operation and maintenance of the apparatus (note WO '115, paragraph bridging pages 1-2 or Hirano '596 paragraph [0004]). The process of WO '115 can be carried out without providing new equipment or a packing, it is possible to have water present necessary for forming an acid gas such as HF, HCl, HBr or HI from a present halogen series gas. Thus, it has been newly discovered that the problem can be solved by selecting a solid base such as sodium hydrogencarbonate or potassium hydrogencarbonate which form water by neutralization of the granule (note WO '115, page 3, middle paragraph or Hirano '596, paragraph [0009]). WO '115 teaches that the treatment of the hydrolysable present halogen series gas can be carried out by selecting a solid base forming water by neutralization as a solid base for the present granule without providing new equipment for a packing. Also, the present granule becomes an efficient removing agent by accelerating hydrolysis by the function of a pore volume and a specific area of an activated carbon contained therein (note WO

'115, page 4, first paragraph or Hirano '596, paragraph [0011]). When the solid base in the granule is sodium hydrogen-carbonate or potassium hydrogencarbonate, it is water-soluble and most of reaction products with the halogen series gas are also water soluble salts (note WO '115, paragraph bridging pages 12-13 or Hirano '596, paragraph [0050]).

It would have been obvious to one of ordinary skill in the art to replace the hydrogencarbonate used WO '115 with other solid base and when the other solid base does not contain water, it would have been obvious to one skilled in the art to include an additional source of water with the other solid base. Since WO '115 prefers a dry type treating method, one skilled in the art would select any appropriate solid source that contains water so that the residue can be treated in dry type treating method.

In Ruff '472, the remaining residue is hydrolyzed to obtain HCl in the presence of additional HCl, this step would require acid-resistant construction material for the apparatus because HCl is formed at high temperature (note claim 1). Thus, when the benefit of recovering the HCl from the metal chlorides in the remaining residue is less than the cost of the apparatus for carrying out the hydrolysis of the metal chlorides, it would have been obvious to one of ordinary skill in the art at the time the invention to simply neutralize the HCl to safely dispose of it.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to contact the remaining residue containing metal chlorides as disclosed in the process of Ruff '472 with a solid base, as suggested by WO '115 because the solid base could not only provide the water for the hydrolysis of the metal

chlorides but also neutralize the HCl formed by the hydrolysis to render the remaining residue safe for disposal. The process as suggested by WO '115 could be carried out in the same apparatus for the step of separating the chlorosilane, and no acid-resistant material is required for such apparatus thereby lower the cost the equipment for the overall process.

For difference (2), Ruff '471 discloses that the residue contains aluminum and it is desirable to keep aluminum chloride from vaporizing (note column 1, lines 60-66).

Terry '312 is applied to teach that it is known and conventional in the art to add NaCl to aluminum chloride to lower the vapor pressure of the latter and thereby maintain the aluminum chloride in liquid phase (note claim 5, step c).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add NaCl to the residue of Ruff '471, as suggested by Terry '312 in order to lower the vapor pressure of the aluminum chloride contained in the residue and thereby maintain the aluminum chloride in liquid phase so that only chlorosilane is recovered in the separating step.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breneman et al (4,743,344) in view of Keller et al (3,878,291), WO '115 (using Hirano '596 as an unofficial English translation) and Terry '312.

Breneman '344 discloses a process for treating a waste slurry which includes silicon, iron, and aluminum metal particles, chlorides of iron and aluminum, silicon tetrachloride (STC) and trichlorosilane (TCS), and materials having boiling points which

are lower than STC and TCS, with said STC and TCS being, in the aggregate, the predominant constituents of the slurry, comprising:

(a) feeding the said waste slurry to a first separation column, to provide STC, TCS, materials boiling lower than STC and TCS, and materials boiling intermediate STC and TCS as overhead from said first separation column, and to provide silicon, iron, aluminum metal particles and chlorides of iron and aluminum as bottoms in said first separation column which is passed to a waste storage vessel;

(b) condensing the overhead from the first separation column and passing this condensed overhead to a second separation column in which (i) STC is recovered as bottoms and (ii) materials boiling lower than STC, including TCS and materials boiling intermediate STC and TCS are recovered as overhead;

(c) condensing the overhead from the second separation column and passing this condensed overhead to a third separation column in which (i) TCS is recovered as overhead (ii) materials boiling intermediate STC and TCS are recovered as a bottoms waste stream (note claim 1).

Breneman '344 discloses that the concentrated metal chloride residue recovered are neutralized or combusted with a suitable hydrocarbon after being purged to the portable receiver (note column 2, lines 62-66).

The differences are Breneman '344 does not disclose (1) the step of heating the concentrated metal chloride residue with a powdered hydrate and (2) the addition of NaCl to the metal chloride residue.

For difference (1), Keller '291 discloses a process for the production of chlorosilane (note title). In the process, a solid residue comprising aluminum chloride, iron chloride as well as FeSi dust and ashes is formed. A solid liquid mixture is fed into a paddle dryer and a mixture of silicon tetrachloride and titanium tetrachloride is separated from the solids (note column 5, lines 32-45). After drying off the solids has taken place, steam is blown for hydrolysis. The hydrogen chloride set free is absorbed in water and returned to the process (note column 5, lines 50-57).

WO '115 is applied as stated above to teach the advantages for using a solid base to remove the acid gas formed from the hydrolysis of the metal chlorides over the step of absorbing in water as disclosed in Keller '291. WO '115 teaches that dry type treating method is preferred because the equipment used can be smaller, easier to maintain and the operation is simpler.

For difference (2), Terry '312 is applied as stated in the above rejection to teach the addition of sodium chloride to lower the vapor pressure of aluminum chloride.

For other dependent claims, note reasons as stated in the above rejections.

Applicant's arguments filed March 6, 2009 have been fully considered but they are not persuasive.

Applicants argue that the claimed methods proceed, without the formation of a liquid waste product.

In Ruff '472, the distillation residue may start out as a suspension (i.e. liquid containing solids); however, after the step of separating the chlorosilanes, the solid

content will increase to more than 90% (note column 2, lines 2, and lines 59-65). This remaining residue, after the step of separating the chlorosilanes, is considered as a "flowable solid material" as required in Applicants' claim 1. When Ruff '472 is taken in view of WO '115, it would have been obvious to one skilled in the art to use a dry type scrubber with solid base, as suggested by WO '115, to hydrolyzing the metal chlorides contained in the remaining residue of Ruff '472. Applicants' claims do not exclude the use of a liquid containing waste before the step of removing trichlorosilane.

Applicants argue that in the claimed invention, HCl is released from water reactive metal chloride without forming an aqueous HCl.

WO '115 is applied above to suggest such feature.

Applicants argue that Ruff '472 teaches the addition of significant amounts of water vapor and HCl to a residue.

Granted that it is true, however, WO '115 is applied to suggest the use of dry scrubber using solid base to hydrolyze the metal chlorides in a waste. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants argue that WO '115 describes a treatment of hot acid gases, not solids as is called for by the claims of the present applications.

Granted that it is true, however, WO '115 still fairly teaches the use of a solid which can provide the water that is required for the hydrolysis of Ruff '472.

Applicants argue that the treatment proposed by WO '115 will not operate in the claimed processes because it presupposes that the acid reagent is one of the halogen gases.

Again, the WO '115 is applied to teach the desire of using a solid to provide the water and the alkaline components to dispose or remove of HCl. It should be noted that the metal chlorides in Ruff '472 is hydrolyzed by the water to form HCl and the HCl is removed by the alkaline components.

Applicants argue that there is no liquid water.

This argument is not persuasive for the same reasons as stated above.

Applicants argue that Breneman '344 and Keller '291 do not teach hydrolysis by heating a combination of two solids.

These references are not relied upon to teach the use of a solid to provide the water for the hydrolysis. WO '115 is applied as stated above to suggest such feature.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner can normally be reached on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ngoc-Yen M. Nguyen/
Primary Examiner, Art Unit 1793

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May 27, 2009